

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

SILICON SAGE BUILDERS, LLC, et al.,
Defendants.

Case No. [20-cv-09247-SI](#)

ORDER ON MOTION OF RECEIVER

Re: Dkt. No. 92

On March 19, 2021, the Receiver, David Stapleton, filed a motion for leave to:

- (1) Employ counsel;
- (2) Identify 2101 Alum Rock, LLC as being within the scope of the receivership estate;
- (3) Establish procedures to maintain investor confidentiality; and
- (4) Establish procedures for providing notice of certain matters to investors and creditors.

Dkt. No. 92. Pursuant to Local Rule 7-2(b), the Court hereby finds the matter appropriate for resolution without oral argument and hereby VACATES the April 23, 2021 hearing.

The first two items, (1) and (2) above, are entirely unopposed and are therefore GRANTED. Dkt. No. 106 (SEC's Statement of Non-Opposition); Dkt. No. 105 (Sanjeev Acharya's Statement of Non-Opposition); Dkt. No. 100 (Western Alliance Bank's Limited Objection to items (3) and (4) only).

On March 25, 2021, Western Alliance Bank ("WAB"), a creditor in this action, filed limited objections to the Receiver's motion. With respect to (3), WAB opposes the Receiver's plan not to disclose investor's names and contact information for purposes of proofs of service. The Receiver

1 explains his plan as follows:

2 This case involves a few hundred individual investors. In order to protect their
3 privacy, where the Receiver serves these investors by mail and would otherwise
4 include their mailing information on the certificate of service, the Receiver will
5 prepare the certificate of service for the service on the investors as normal and will
6 maintain it, but will not file that certificate with the Court. Instead, the Receiver will
7 file a declaration testifying to the service of the investors without including their
8 names and addresses and will file that declaration with the Court and post it on the
9 website. This procedure will only be used for investors, including noteholders, and
10 not for creditors or other parties in interest. Any document that contains investor
11 email information will also be redacted before filing with the Court.

12 Dkt. No. 100 at 2.¹ WAB argues “all parties claiming against or benefitting from the receivership
13 should make their presence and identities known” and opposes the Receiver’s plan to maintain
14 investor confidentiality.

15 The Court disagrees with WAB and finds the Receiver’s proposed course reasonable for
16 proof of service. In the event names and contact information of investors become relevant for more
17 substantive purposes, the parties are not precluded from raising this issue again with the Court as
18 necessary.

19 With respect to (4), WAB does not oppose the Receiver’s plan regarding service of pleadings
20 so long as an order approving such service does not supersede or inhibit WAB’s ability to receive
21 notifications via ECF. The Court’s understanding is that so long as WAB has appeared in the case
22 its counsel should receive ECF notifications.

23 As such the Court GRANTS Mr. Stapleton’s motion as follows:

24 1) The Receiver’s retention of Smiley Wang-Ekval, LLP, as his counsel is approved, with
25 the allowance and payment of its fees subject to the Court’s approval;

26 (2) 2101 Alum Rock, LLC is one of the Receivership Entities, as that term is defined in the
27 Receivership Order (Dkt. No. 63);

28 (3) The procedures set forth in the motion (Dkt. No. 92) to protect the privacy of investors,
including noteholders, is approved; and


(4) The Receiver is authorized to effectuate service of the notice of matters that do not

¹ For ease of reference, page number citations refer to the ECF branded number in the upper right corner of the page.

1 directly impact a particular creditor or investor by posting the notice and related pleadings on the
2 website that is maintained for this receivership and which appears at [www.siliconsagereceiver-](http://www.siliconsagereceivership.com)
3 [ship.com](http://www.siliconsagereceivership.com), unless a creditor or investor notifies the Receiver's counsel by email or mail that the
4 creditor or investor opts out and would like to continue to receive notices by mail.

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6 **IT IS SO ORDERED.**

7 Dated: April 21, 2021

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9 SUSAN ILLSTON
10 United States District Judge
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